

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

FILED
JAMES J. DEWITT
CLERK

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BARBARA LODER HILDEBRANDT,

Plaintiff,

vs.

HYATT CORPORATION, et al.

Defendants.

Case No. C-1-02 0003

Judge Sandra Beckwith

FINAL PRETRIAL STATEMENT

This action came before the Court at a final pretrial conference held on July 23, 2004 at 9:00 a.m., pursuant to Rule 16, Federal Rules of Civil Procedure.

I. APPEARANCES:

For Plaintiff(s): Robert Alan Steinberg
Michael Jay O'Hara

For Defendant(s): Theresa M. Gallion
Nadine C. Abrahams
Jeffrey Joseph Harmon

II. NATURE OF ACTION AND JURISDICTION:

- A. This is an action for discrimination on the basis of age in violation of the Ohio Civil Rights Act ("OCRA"), Ohio Revised Code ("O.R.C.") Chapter 4112, and the Age Discrimination in Employment Act, 29 U.S.C. §§ 621, *et seq.*, ("ADEA").
- B. The jurisdiction of the Court is invoked under 28 U.S.C §1331, 1332, 1343 (3) and (4), and 1367.
- C. The jurisdiction of the Court is not disputed.

III. TRIAL INFORMATION:

- A. The estimated length of trial is five days.
- B. Trial by jury has been set for August 9, 2004 at 1:00 p.m., pursuant to the General Notice on Trial Assignment.

IV. AGREED STATEMENTS AND LISTS:

A. General Nature of the Claims of the Parties

1) PLAINTIFF'S CLAIMS:

Plaintiff claims that she was subjected to age discrimination when Defendants terminated her employment effective October 1, 2004.

Plaintiff claims that she is entitled to reinstatement, back pay, front pay in lieu of reinstatement, compensatory damages, liquidated damages and punitive damages.

2) DEFENDANTS' DEFENSES:

Defendants deny liability for the following reasons:

Defendants had a legitimate, non-discriminatory reason for selecting Plaintiff's position for elimination.

Defendants assert the following affirmative defenses:

- a) Plaintiff's claims are barred, in whole or in part, to the extent she has elected to pursue an administrative remedy under the Ohio Civil Rights Act.
- b) Even if any decision concerning Plaintiff were based, in part, on her age, which it was not, Defendants would have reached the same age-neutral decision in any event.
- c) Plaintiff's claims fail, in whole or in part, because Plaintiff has not mitigated her damages.

B. Uncontroverted Facts

The following facts are established by admissions in the pleadings, or by stipulations of counsel, or by ruling of the Court:

- 1) Plaintiff, Barbara Loder Hildebrandt, born September 23, 1952, was 49 years of age when Defendants notified her that her position was eliminated and her employment terminated effective October 1, 2001.
- 2) Defendant Hyatt Corporation (Hyatt) is an international corporation in the business of managing and operating Hyatt hotel and resort properties throughout the United States and Caribbean.
- 3) Defendant Ty Helms, born June 13, 1957, was Hyatt's Vice President of Sales in September 2001.
- 4) Defendant Jack Horne, born September 23, 1961, was Hyatt's Assistant Vice President of National Sales in September 2001.
- 5) During 2001, Hyatt had in place specific policies prohibiting discrimination and harassment on the basis of all protected categories, including age.
- 6) Hyatt's policies, which state that Hyatt does not tolerate discrimination or harassment of any kind, are distributed to all employees, including the Plaintiff and Defendants Helms and Horne.
- 7) On September 28, 2001, Plaintiff was informed that her position was being eliminated.
- 8) Hyatt employs over 36,000 individuals in its hotels and its corporate office and various divisions, including its marketing, finance, operations, human resources, legal and sales divisions.
- 9) Plaintiff routinely received a rating of "exceeds expectations" on her yearly evaluation.
- 10) The Parties stipulate the authenticity of all contemporaneous Hyatt documents produced in discovery (i.e., documents that were not created for litigation).
- 11) The Parties have stipulated to the accuracy of the dates of birth, ages and salary of all individuals in the National Sales Force as contained in their personnel files.

C. Contested Issues of Fact

Plaintiff's Statement of Contested Issues of Fact

- 1) At the time Plaintiff's employment was terminated, she was then and currently is a resident and citizen of the State of Ohio. At the time of her termination, Ms. Hildebrandt had been a loyal Hyatt sales employee with an excellent record for 22 years.

- 2) At the time of her termination, Plaintiff held the position of Director of National Accounts for Central National Sales for Hyatt in Hyatt's National Sales Force (NSF), to which she was appointed on or about February 1996. From 1995 to 2001, her headquarters was the Hyatt Regency Hotel in Cincinnati, Hamilton County, Ohio.
- 3) Defendant Helms is five years younger than Plaintiff. Defendant Helms approved Jack Horne's decision to terminate Plaintiff and other Directors of National Accounts.
- 4) Defendant Horne is nine years younger than Plaintiff. Horne made the decision to terminate Plaintiff's employment and the employment of other Directors of National Accounts.
- 5) Hyatt's policies state that age cannot be a motivating factor in adverse job actions, including termination of employees.
- 6) Hyatt operates a National Sales Force (NSF) and a Divisional Sales Force (DSF). The DSF members are employed in Hyatt hotels and arrange accommodations in their respective hotels. The NSF members handle large national accounts, which book business such as conventions in various Hyatt hotels, usually on a periodic basis. DSF personnel aspire to join the NSF; it is considered a move upward, and it is very rare that people voluntarily leave the NSF. At the time her employment was terminated, Plaintiff worked in the NSF.
- 7) Barbara Hildebrandt's duties as a Director of National Accounts included arranging group and individual hotel accommodations for her clients at Hyatt hotels throughout the country, recruiting new clients, and maintaining approximately 40 accounts in Ohio, Kentucky, and Tennessee through personal services.
- 8) Barbara Hildebrandt was an excellent employee. Her accounts produced approximately 10 million dollars in sales for Defendants during calendar year 2000, the year before she was terminated. She received excellent annual performance evaluations ("Exceeds Expectations" or "Role Model") each year that she was Director of National Accounts, including her most recent annual evaluation of February 1, 2001. She received annual Outstanding Production Achievement Awards in 1994, 1996, 1997, 1998, 1999, and 2000; and met or exceeded all her annual sales goals, with one exception in 1995 when she achieved 92.3% of her goal and received an "Exceeds Expectations" rating. In 2000, she was nominated for the prestigious Annual Director of National Accounts award. She was ranked among the highest performers in the company for the year prior to her termination (2000). She achieved 136% of her group quota for that year.

She exceeded her quota by two million dollars. She exceeded her quota for the previous five years. Her supervisor, Brian Booth, characterized her as "very dedicated and tireless in her efforts to gain business for Hyatt."

- 9) During late 2000, it became apparent to Hyatt officials that the economy was in a downturn and heading for a recession. Hyatt understood that an economic recession existed in the United States since late 2000/early 2001. As early as July 2000, a highly respected hotel industry research group forecasted a decline in room revenue for 2001. In January 2001, this research group issued a forecast alert stating there would be a decrease in lodging demand during the first half of 2001. Well before September 11, 2001, the U.S. lodging industry room revenue was headed downhill. This trend was even more pronounced among upscale hotels, such as those Hyatt operates. Starting in February 2001, the room revenue in upper upscale hotels started to fall precipitously. Well before September 2001, the room revenue in these hotels was declining dramatically. The severity of the lodging demand downturn was a reflection of the current corporate profits recession in the U.S. Following the terrorist events of September 11, 2001, the lodging segment of the economy experienced a further rapid and deep decline. As of February 2004, the lodging segment of the economy had not recovered from the weakened economy and travel cutbacks.
- 10) During the first half of 2001, Hyatt's Chief Operating Officer, Ed Rabin, and other top executives initiated alerts to take steps to cut costs, which clearly included eliminating positions. Hyatt eliminated some positions prior to September 11, 2001.
- 11) Hyatt's official policy in economically tough times was to try to retain the jobs of loyal, long-term employees. Insofar as Hyatt's Chief Operating Officer, Ed Rabin knew, "we were doing everything to protect, I believe, our employees, both long term and loyal and hard working [employees] and all of the above." In April 2001, initial cost savings steps attempted to avoid eliminating employees. One of the methods of cutting costs was to restrict new hiring. Hyatt's top executives had numerous communications, both verbal and written, that said no new hiring during this period or new hiring should be kept to a minimum.
- 12) Defendants Horne and Helms hired individuals into the National Sales Force during 2001. Horne, with Helms' approval, hired ten sales managers into the National Sales Force during 2001 or early 2002: Jennifer Roman (DOB: 9/30/68, Faye Memoli (DOB: 6/20/71), Donna Bongiovanni (DOB: 9/11/60); Richard Wood (DOB: 1/7/60), JoAnn Rumsey (DOB: 6/5/68), Erin Moriarity (DOB 4/21/77), Carolyn Montrose (DOB: 5/5/64), Judy Lee-Kirchman (DOB: 12/10/58), Gracie Anzaldo-Moore (DOB: 6/26/59) (hired in 2002), and Karen Kelly (DOB: ?) (hired

in late 2001 or early 2002). In addition, in March 2001, Horne transferred and promoted Molly Crompton, a 33-year-old National Accounts Manager with less than one year's experience in the NSF, into the position of Director of National Accounts in the Central Region, the same region where Barbara Hildebrandt was located.

- 13) In mid-May 2001, Hyatt officials hired 38-year-old attorney Rob Schnitz of the Fisher & Phillips LLP law firm, as Vice President and Associate General Counsel to help plan the termination of employees. Schnitz was represented to C.O.O. Ed Rabin as having expertise in the area of law dealing with elimination of jobs. He had no previous experience with Hyatt. Schnitz ultimately provided legal supervision for the September 2001 reduction in force.
- 14) Hyatt enjoyed a substantial net profit during 2001.
- 15) Hyatt's top executives met to discuss cost savings measures after September 11, 2001. They did not determine it was necessary to terminate any individual in the NSF, which made up a small portion of Hyatt's workforce. The managing committee did not determine that a specific number of individuals in the NSF had to be terminated, nor did they determine that any specific cost savings in the NSF had to be made.
- 16) The entire expense of the NSF was funded by third-party hotel owners as a "chain allocation."
- 17) Helms did not instruct Horne that he was required to terminate anyone in the NSF; Helms did instruct Horne that he had to identify any person to be terminated; Helms did not instruct Horne that any specific number of people had to be terminated; and Helms did not instruct Horne that any particular cost savings had to be achieved. Helms did not even require Horne to complete a cost-benefit analysis or provide specific information about people he wished to discharge. No specific criteria were developed to determine how many NSF employees were to be discharged, and no specific criteria were developed to determine the selection of employees to be discharged. Helms simply gave Horne unbridled discretion to terminate employees and then approved Horne's recommendations, except one. Helms reversed one of Horne's termination recommendations to save the job of a male employee, Joe Koch, who was 37 years of age.
- 18) Horne did not consider the following criteria when making the decision to terminated sales managers: their seniority; their history with the company; their current pay and benefits; their production; their skills compared to those not discharged; their long-term performance; their short-term performance; the amount Hyatt had spent on schooling and training them; their awards and achievements; their annual performance reviews;

whether they operated from a satellite office; whether they could be accommodated with transfers to other positions; or the financial effect termination would have on a long-time employee's savings plan and income tax liability. Horne did not look at their performance reviews or their sales achievements.

- 19) Eighty percent of those affected by the reduction in force were in the protected age group.
- 20) Molly Crompton received the following accounts of Barbara Hildebrandt after Mrs. Hildebrandt was terminated: National Cotton Council, American Contract Bridge League, Universal Tech Corp, Smith & Nephew Healthcare, Longaberger, Brown-Forman, Self Storage Association, United Commercial Travelers of America, Remember Data Services, Society of Food Service Management, Spectra Precision Incorporated, Thomas Associates, Travel Link, and Western-Southern Life Insurance Corporation. Ms. Crompton received over one million dollars in credit for 2001 from just one of these accounts, American Contract Bridge League. Ms. Crompton was given a lower sales goal than the goal that had been given to Mrs. Hildebrandt. Ms. Crompton exceeded her sales goal for 2001 by 165% and thus received a bonus of \$13,500.
- 21) Barbara Hale received the following accounts of Barbara Hildebrandt after Mrs. Hildebrandt was terminated: AEC Management Resources, Inc., American Association of Lab Animal Science, American Board of Family Practice, American Board of Veterinary Practitioners, American Ceramic Society, Association Management Resources, Bank One Corporation, Chief Officers State Library Association, Council of State Government, F&W Publishing Corp., GE Aircraft Engines, International Anesthesia Research Society, Lenscrafters, National Association of Government Deferred, National Association of State Information Resource Executives, National Association of State Purchasing Offices, National Middle School Association, Procter & Gamble Headquarters, Procter & Gamble Corporate Sales, Procter & Gamble Group Travel, U.S. Cutting Tool Institute, and Wendy's International.
- 22) Jennifer Roman received the following accounts of Barbara Hildebrandt after Mrs. Hildebrandt was terminated: International Association of Culinary Professionals, Foodservice Associates, Foodservice Consultants International, and Inflight Foodservice Association. In addition, Ms. Roman received Mary Rocereto's largest account, TIMCO, after Ms. Rocereto was terminated in the RIF.
- 23) The employees in the NSF Central Region whose jobs Horne completely protected from termination were all substantially younger than Barbara Hildebrandt. Hale, Crompton, and Melissa Daniels were in their early

30's, while Donna Bongiovanni and Inga Spindola were 41 and 43 years old, respectively. Barbara Hildebrandt was 49 years old when she was terminated.

24) The following statistical information regarding the employment decisions made by Jack Horne on the documents he created (Plaintiff's Exhibits 37f - 37j) is accurate:

a) Defendant Horne divided 66 sales manager into three categories: A, B, and C. The A group were completely protected from termination. The C group were designated for termination. The B group were not designated for termination, but were not completely protected.

b) There is a 7.5-year difference between the average age of the employees in Group A, who were completely protected from termination (35.5 years) and the average age of the employees in Group C, who were actually terminated (43.0 years).

Average age of those in Group A (protected):	35.5
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Average age of those in Group C (designated):	42.8
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Average age of those actually separated ¹ :	43.0
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Sales managers 40 & over before 9/28/01: (43 of 66)	56%
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Sales managers 40 & over protected from RIF: (Group A) (4 of 17)	23%
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Sales managers 40 & over designated for termination: (Group C) ((10 of 13)	77%
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Sales managers 40 & over unprotected and separated: (9 of 11) ²	81%
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d) 81% of the separated sales managers (9 of the 11) were in the protected age group.³

e) 80% of the terminated sales managers (8 of the 10) were in the protected age group.

¹ This figure is comprised of 11 of the 13 that Horne placed in Group C who were actually separated. It excludes Neubauer and Koch, who were not actually separated, but includes Venezia, who was earmarked for termination but resigned on the day the terminations were announced.

² Id.

³ Ex. 199

- 25) Plaintiff filed a timely discrimination charge with the Equal Employment Opportunity Commission (EEOC) on or about February 15, 2002. Because the EEOC could not resolve her charge within 180 days, it provided her a right-to-sue notice on or about March 28, 2002.
- 26) Age was a motivating factor in Defendants' decision to terminate Plaintiff.

Defendants' Statement of Contested Issues of Fact

- 1) Although Hyatt does not own all of the approximately 122 Hyatt hotel and resort properties, it has management agreements with property owners whereby Hyatt provides management services to the 122 Hyatt properties within the United States.
- 2) At the time that her position was eliminated, Plaintiff worked in Hyatt's National Sales Force ("NSF") which sells hospitality services to large companies or organizations undertaking business in multiple cities, and consequently, offers business opportunities with multiple Hyatt hotels.
- 3) In addition to the NSF, each Hyatt hotel property has a "field sales office" which is made up of salespersons who are responsible for generating business for that particular Hyatt property. A typical field (individual hotel) sales account is a company based in a particular city that conducts most of its business in the city of origin. The field salespersons are employed by the Hyatt property; work solely for that hotel property; and have no ability to schedule conferences, commit room nights or other hotel services beyond the reach of their singular property.
- 4) The NSF sales staff is ordinarily responsible for approximately 40% of Hyatt's annual business.
- 5) In Spring 2001, Hyatt implemented a number of cost-saving measures Company-wide due to the failing economy and financial difficulties. In the Sales Department, Hyatt reduced travel and related expenses. In May 2001, based on the recommendations of his staff, Helms implemented numerous cost-savings measures in the Sales Department, which impacted the NSF, including cutbacks in sales administration travel and expenses; eliminating the Divisional Director of Sales meeting; reducing sales administration promotional expenses; reducing each NSF office budget; and hiring employees for lesser starting compensation, if possible. Unlike its competitors, Hyatt was able to avoid layoffs during this time.
- 6) Hyatt realized a decline in its total income of over \$400,000,000.00 from the previous year, and Hyatt's hotel owners realized profits almost \$200,000,000.00 less than the previous year. This downturn necessitated

many workplace cutbacks, because of lack of work and, as a result, Defendant Helms began to examine numerous options for reducing the expenses in Hyatt's Sales Department.

- 7) In the days following September 11, Hyatt hotels lost over \$44,000,000.00 in business from immediate cancellations. In fact, Hyatt's business had dropped by \$415,000,000.00 from the previous year, resulting in lack of work for thousands of employees.
- 8) Hyatt's two most senior officers, Scott Miller and Ed Rabin, informed their direct reports, including Defendant Helms, that they must immediately undertake more aggressive cost-cutting measures.
- 9) Defendant Horne made the decision to eliminate 10 of the approximately 77 NSF sales positions, after consultation with Defendant Helms and other senior managers.
- 10) The 10 persons affected by the reduction in force included 8 individuals over 40 and 2 under the age of 40.
- 11) At all relevant times, the NSF was composed of approximately 77 persons, 43, or 56% of whom were over the age of 40.
- 12) Mr. Horne concluded that neither performance nor seniority was an appropriate factor in any of the job eliminations because of the national scope of the NSF and the needs of customers.
- 13) Following the elimination of Plaintiff's position, a decision was made to assign Plaintiff's accounts to several current Directors of National Accounts who were already performing related work, with the instruction to assess the accounts.
- 14) Plaintiff's accounts were distributed to a diverse group of individuals for reassessment. The ages of the individuals who were assigned Plaintiff's former accounts at the time of the reduction in force are as follows: Barbara Hale, 34; Molly Crompton, 33; Fred Reichelt, 45; Melissa Daniels, 35; Inge Spindola, 43; and Jennifer Roman, 32. Four of this group were in their 30's, and two were in their 40's.
- 15) Prior to the reduction in force, the sales personnel in the NSF included six (9%) employees between the ages of 20 and 29; 28 (36%) employees between the ages of 30 and 39; 34 (44%) employees between the ages of 40 and 49; and 9 (12%) employees age 50 or over. A total of 56% (43 employees) in the NSF were 40 years of age or more at all relevant times.

- 16) After the reduction in force, of the same group of employees, six (9%) employees were between the ages of 20 and 29; 26 (39%) were between the ages of 30 and 39; 26 (39%) were between the ages of 40 and 49; and 9 (13%) were age 50 or over.
- 17) After the reduction in force, 52% of the NSF sales staff was still over the age of 40.
- 18) Not a single person 50 and older was adversely affected by the staff reduction.
- 19) In each of the five National Sales Offices in the National Sales Force, numerous employees older than the individuals affected by the reduction in force were retained.

D. Issues of Law

- 1) Contested Issues of Law: The contested issues of law in addition to those implicit in the foregoing issues of fact, are:
 - a) whether Plaintiff has discharged her burden of proof in establishing a prima facie case of age discrimination (Plaintiff contends that this issue has already been resolved by the Court in Plaintiff's favor in the Court's ruling denying summary judgment; Defendants contend that this issue has not yet been resolved);
 - b) whether Plaintiff has established direct or circumstantial evidence of age discrimination (Plaintiff contends that this issue has already been resolved by the Court in Plaintiff's favor in the Court's ruling denying summary judgment; Defendants contend that this issue has not yet been resolved);
 - c) whether Plaintiff has established that Hyatt violated the ADEA by discriminating against her based on her age;
 - d) whether Plaintiff has established that Defendants Hyatt, Helms, or Horne violated Ohio state law by discriminating against her based on her age;
 - e) whether Defendants have discharged their burden of production by proffering legitimate, non-discriminatory reasons for Plaintiff's job elimination; and
 - f) whether Plaintiff can demonstrate that the reasons offered by Defendants are pretextual, either by demonstrating that the reasons

have no basis in fact; that they did not actually motivate the Defendants; or that the reasons are insufficient; and

- g) whether Plaintiff has established that she is entitled to back pay;
- h) whether Defendants have established that Plaintiff failed to mitigate her damages;
- i) whether Plaintiff has established that she suffered damages, including emotional distress, liquidated damages, and punitive damages;
- j) whether Plaintiff has demonstrated an entitlement to reinstatement or front pay; and

D. Witnesses

1) Plaintiff will call:

- 1. Lee Hildebrandt
- 2. Barbara Loder Hildebrandt
- 3. David Berins⁴
- 4. Edward Rabin
- 5. Ty Helms
- 6. Jack Horne
- 7. Douglas Patrick
- 8. Robert Schnitz
- 9. Molly Crompton
- 10. Harvey Rosen, PhD
- 11. Brian Booth

Plaintiff may call:

- 1. Wendy Aylward
- 2. Mary Rocereto
- 3. Dawn Beagle⁵

Possible Plaintiff's Rebuttal Witnesses:⁶

- 1. Kent Friel
- 2. Terri Madden

⁴ Defendants object to their expert being called in Plaintiff's case in chief.

⁵ Defendants will be moving in limine to limit the testimony of these three witnesses.

⁶ Defendants will be moving in limine to exclude Plaintiff's rebuttal witnesses on the ground that they were never disclosed during discovery.

3. Account representatives from Plaintiff's former accounts, including Bill Haire, Bruce Kramer, John Addington, Martha Morrison, Wendy Bowling.

Based upon Defendants' statements as to the claims they will make in their case in chief, Plaintiff has notified Defendants that she anticipates calling the above rebuttal/impeachment witnesses. Plaintiff reserves the right to call additional rebuttal witnesses, depending on the testimony offered by Defendants. Plaintiff cannot further anticipate rebuttal witnesses at this time.

Plaintiff reserves the right to call witnesses identified on Defendants' witness list.

- 2) Defendants will call or will have available at trial:

1. Barbara Loder Hildebrandt
2. Ty Helms
3. Jack Horne
4. Doug Patrick
5. Rob Schnitz
6. David Berins

Defendants may call:⁷

1. Brian Booth
2. Randa Saleh
3. Mark Henry
4. Bruce Small
5. Carol Buseman Roper
6. Fred Reichelt
7. Barbara Hale
8. Rob Sarmiento
9. Inge Spindola
10. Melissa Daniels
11. Donna Bongiovanni
12. Denise Cmiel
13. Jan Bansfield
14. Debra Rodriguez
15. Ellen Gerchick
16. Marilyn Brumbaugh
17. Pat Trammell and Scott Allen of Hyatt Regency Cincinnati
18. Jeanne Ellworth, or another representative from the Cincinnati Horticultural Society
19. Ed Rabin
20. Molly Crompton

⁷ Plaintiff will be moving in limine to exclude the testimony of Defendants' case in chief witnesses who have not been disclosed during discovery.

21. Jennifer Roman
22. Faye Memoli
23. Frank Borg
24. Diane Smith
25. Michael Williamson

Defendants reserve the right to call rebuttal and impeachment witnesses whose testimony cannot reasonably be anticipated. Defendants further reserve the right to call witnesses identified on Plaintiff's witness list.

E. Expert Witnesses

The parties are limited to the following number of expert witnesses, whose names have been disclosed and reports furnished to opposing counsel:

Plaintiff: Dr. Harvey Rosen
Defendants: David Berins

Counsel have attached a resume of each expert's qualifications as a part of Appendix A, herein.

F. Exhibits

Exhibit lists are attached as follows:

Appendix B	Joint Exhibits
Appendix C	Plaintiff Exhibits
Appendix D	Defendant Exhibits

The parties intend to use summary charts and demonstrative evidence exhibits in addition to the exhibits noted above. The parties agree that any exhibit or information contained in an exhibit is capable of being used in a demonstrative exhibit or trial aid. They have agreed to exchange these exhibits no later than August 2, 2004. The exhibit lists will be updated to reflect these exhibits.

Pursuant to Plaintiff's counsel's conversation with this Court's Courtroom Deputy, the parties will submit their objections to exhibits one week before the trial.

G. Depositions

Testimony of the following witnesses will be offered by deposition:

The testimony of Catherine Petz, Wendy Aylward, Mary Rocereto, and Dawn Beagle may be offered by deposition if these witnesses are unavailable. Defendants will be filing a Motion in Limine to limit the testimony of these witnesses.

Plaintiff reserves the right to use deposition testimony in the event of the unavailability of a witness, or in rebuttal to Defendants' case in chief, or for impeachment purposes

Defendants do not anticipate utilizing deposition testimony of any person in their case in chief, but reserve the right and privilege to do so in the event of unanticipated illness or emergency, or in rebuttal to Plaintiff's case in chief, or for impeachment purposes.

The parties have agreed to exchange any deposition designations that involve objections which require a ruling, and to submit this information to the Court one week prior to trial.

H. Discovery

Defendants contend that discovery has been completed.

Plaintiff contends that discovery has not been completed, because Defendants have not supplemented certain discovery requests and refuse to do so. This consists of employee data forms reflecting bonuses received by Defendants Horne and Helms and sales managers during 2002 that were earned during 2001. Defendant has answered an interrogatory regarding bonuses received by sales managers only, but has not submitted the underlying supplemental data sheets for the sales managers. The data sheets produced in discovery to date only cover the period up to May 2001, for the most part. Defendant has not produced the date of birth of, Karen Kelly, who was identified as having been hired into the NSF in early 2002. Nor have they produced the region to which she was assigned.

Defendants strenuously object to the above statement, noting Defendants' compliance with the Federal Rules of Civil Procedure and the absence of a timely Motion to Compel addressing this subject.

I. Pending Motions

The following motions are pending at this time:

- 1) Defendants' Motion in Limine to Exclude Expert Opinion and Report of Harvey S. Rosen;
- 2) On or before July 30, 2004, Plaintiff expects to file a motion in limine to exclude any evidence offered by Defendants on subjects upon which Defendants' counsel instructed its witnesses not to answer deposition questions.

- 3) On or before July 30, 2004, the deadline established by this Court, the Defendants anticipate filing numerous other Motions in Limine on a variety of subjects, including limitation of "other acts" evidence; bifurcation of issues of liability from issues of damages; anticipated testimony from customers with no personal knowledge of the issues in this case; anticipated testimony concerning years of service, as opposed to age; anticipated testimony of matters disposed of by the Court's ruling on the Motion for Summary Judgment; and other important matters.

J. Miscellaneous Orders

- 1) Judge Beckwith's Order on Defendants' Motion for Summary Judgment.
- 2) The foregoing stipulations and statements were amended at the final pretrial conference as follows: _____

V. Modification

This Final Pretrial Statement may be modified at the trial of this action, or prior thereto, to prevent manifest injustice. Such modification may be made by application of counsel of on motion of the Court.

VI. Jury Instructions and Trial Briefs

Proposed jury instructions and trial briefs will be filed with the Clerk of Court five days prior to the commencement of trial.

VII. Settlement Efforts

The parties have exchanged figures but have not otherwise engaged in settlement negotiations. Current settlement positions are due to be exchanged on July 21, 2004.

VIII. Additional Action Taken

Date: July 19, 2004

s/Robert A. Steinberg
Counsel for Plaintiff

s/Theresa M. Gallion
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following by ECF
this 19th day of July, 2004:

Jeffrey Joseph Harmon
Cors & Bassett
1881 Dixie Highway, Suite 350
Ft. Wright, KY 41011-2660

Nadine C. Abrahams
Fisher & Phillips LLP
140 South Dearborn Street, Suite 420
Chicago, IL 60603

Theresa M. Gallion
Natalie J. Storch
Fisher & Phillips LLP
Lincoln Plaza, Suite 1250
300 South Orange Avenue
Orlando, FL 32801-3392

s/Robert A. Steinberg

APPENDIX A

Qualifications of Expert Witness

Plaintiff's Expert

Name: Harvey S. Rosen, Ph.D.

Address: Burke, Rosen & Associates
2800 Euclid Avenue, Suite 300
Cleveland, OH 44115

Present Title: Economist

Duties: Dr. Rosen received his Ph.D. in economics from Case Western Reserve University in 1969 following his undergraduate preparation at Western Reserve University and the University of California at Berkeley, California. He was an Associate Professor at Cleveland State University in Cleveland, Ohio where he began his teaching career in 1966. He accepted early retirement and left the Ohio system with 31 years of service to the State of Ohio. He holds the rank of Associate Professor Emeritus from that institution. He currently holds the rank of Adjunct Associate Professor at John Carroll University where he is engaged in part-time teaching of economics.

Dr. Rosen has been engaged in private economic consulting for more than 35 years, primarily for courts and attorneys, involving the determination of economic damages that have arisen from a legal dispute. He is a principal in the firm of Burke Rosen and Associates in Cleveland, Ohio. Dr. Rosen has determined damages in thousands of cases during his professional career. His opinions on the determination of front or future pay and back pay have been accepted by courts in many states throughout the country.

Dr. Rosen has been appointed by a number of courts as the courts' economic expert. He has been appointed by six state courts as an economic expert and as a special master. In two of those appointments, in addition to determining damages, he was appointed as Special Master in charge of determining distribution of a fund. He has also been appointed by three federal courts as the courts' expert. He has been retained by the Ohio attorney general's office on economic matters concerning the determination of economic damages.

Education/Degrees: B.B.A. Western Reserve University 1964
M.A. Western Reserve University
University of California Berkeley 1966
Ph.D. Case Western Reserve University 1969

Job Experience: Present: Vice-President/Treasurer of Burke, Rosen & Associates (30 yrs)
Lecturer, Western Reserve University (1966)
Lecturer, Cleveland State University (1966)
Instructor, Cleveland State University (1967-1969)
Economic Research Consultant, Central National
Bank of Cleveland (1968-69)
Assistant Professor, Cleveland State University (1969-1973)
Associate Professor, Cleveland State University (1974-1993)
Retired Associate Professor (1993-1994)
Associate Professor Emeritus (11/94 -)
Reviewer, Financial Practice and Education, Raj Aggarwal, John Carroll
University, Editor (1995)
Adjunct Associate Professor, John Carroll University (1999-Present)

Appeared and qualified/deposed as expert witness in the states of:

Ohio, Michigan, Kentucky, West Virginia, Massachusetts, Maryland,
District of Columbia, Pennsylvania, Louisiana, California, Rhode Island,
Texas, New York, Nevada, Colorado, New Jersey, Illinois, Virginia,
Tennessee, and Puerto Rico.

Associations & Societies:

American Economic Association
National Association of Business Economists
Ohio Association of Economists and Political Scientists
- At Large Representative to the Executive Board (1995-96)
National Academy of Economic Arbitrators

Publications: Dr. Rosen is the author of numerous publications, which covers two full pages of
text.

Qualifications of Expert Witness

Defendants' Expert

Name: David A. Berins

Address: 1402 Exeter Court, South Lake, Texas 76092

Present Title: President, Berins & Company, LLC.

Duties: Mr. Berins has thirty-eight years of experience in the hospitality industry including eight years of operations management and thirty years as a consultant. He currently provides senior-level advisory services to hotel owners, investors, and operators on strategic issues. Services include development planning, operational consulting, marketing consulting, strategic planning and financial analysis.

Education & Degrees: Bachelor of Science – Hotel Administration, Cornell University (1966)

Job Experience:

- President, Berins & Co. (1999-present)(provides senior-level advisory services to hotel owners, investors, and operators on strategic issues)
- Senior Vice President, Strategic Hotel Capital Incorporated (1998-1999)(consulting company on acquisition of 25 luxury and upscale hotels)
- President, Berins Consulting Incorporated (1993-1998)(provided market research, operational consulting to hotel chains)
- Senior Principal & Worldwide Director, Hospitality Industry Consulting Services-Arthur Anderson & Co. (1989-1993)(led a team of specialists providing consulting services in the hospitality industry in the U.S. and worldwide)
- Managing Partner, Berins & Co. (1983-1989)(provided advisory services to hotel operators, owners, lenders and investors)

Associations & Societies:

- Chairman of the Board of International Society of Hospitality Consultants (1993-1994)
- President of International Society of Hospitality Consultants (1992-1993)
- American Hotel & Motel Association
- Urban Land Institute

Publications:

- Editor and principal author, The HOST Report, a semi-annual statistical report on the U.S. hotel industry
- Urban Land magazine
- The Cornell Quarterly
- Lodging magazine
- Columnist, Hotel & Motel Management magazine

APPENDIX B**JOINT EXHIBITS OF PLAINTIFF AND DEFENDANT***

Ex. No.	Bates Number	Designation/Description	Identified	Admitted
I	BH 000004	Letter from Petz to BLH re "Separated thru no fault of her own"		
II	BH 000001	Letter from Petz to BLH re vacation pay, COBRA, outplacement, and ten weeks salary		
III	10674	Memo from Helms to Miller & Rabin re labor and general expense reductions		
IV	10675	Sales Administration chart		
V	10676	Assumptions list		
VI	10677	International & Individual Travel Sales chart		
VII	10678	Assumptions list		
VIII	10679	IT Restructure Plan and Total National Sales Force Savings		
IX	10680	Eastern National Sales Office chart		
X	10681	Western National Sales Office chart		
XI	10682	Central National Sales Office chart		
XII	10683	Northeastern National Sales Office chart		
XIII	10684	Omaha National Sales Office chart		
XIV	10685	Budget Reductions Corporate Billback Project Summary Sales Consolidated chart		
XV	10686	Budget Reductions Corporate Miscellaneous Promotions Summary Sales Consolidated chart		
XVI	10687	Memo from Helms to Miller and Rabin re labor and general expenses reductions		
XVII	10688	Sales Administration chart		
XVIII	10689	Assumptions list		
XIX	10690	International & Individual Travel Sales chart		
XX	10691	Assumptions list		
XXI	10692	IT Restructure Plan and Total National Sales Force Savings		
XXII	10693	Central National Sales Office chart		
XXIII	10694	Northeastern National Sales Office chart		
XXIV	10695	Omaha National Sales Office chart		
XXV	10696	Western National Sales Office chart		
XXVI	10697	Eastern National Sales Office chart		
XXVII	10698	List of jobs eliminated in Sales department		
XXVIII	10700-01	Chart showing persons to whom BLH's accounts were assigned		
XXIX	10642-665	Hyatt Hotels & Resorts Employee Handbook		
XXX	32343, 32348, 32349, and	Charts prepared by Jack Horne regarding account redeployments for Aylward, Beagle, Rocereto, and Hildebrandt		

	32350			
XXXI	34107-34129	NSF Group and Individual Travel PRIDE Payout Scales		
XXXII	Small Aff't, p. 4, chart portion on top of page 7	Charts prepared by Bruce Small regarding accounts and revenue		
XXXIII	32499-33512	*Plaintiff's accounts with organizational profiles		
XXXIV		Plaintiff's W-2 forms, tax returns and payroll records		
XXXV		Affidavit of Barbara Loder Hildebrandt dated May 8, 2004		
XXXVI	10058	Plaintiff's acknowledgment of discrimination policy		
XXXVII	10061	Plaintiff's acknowledgment of discrimination policy		
XXXVII I	10062	Employee handbook acknowledgment signed by plaintiff		
XXXIX	10064	Plaintiff's acknowledgment of discrimination policy		
XXXX	10236	Handbook and non-discrimination in employment policy acknowledgment signed by plaintiff		
XXXXI	10238	Handbook and non-discrimination in employment policy acknowledgment signed by plaintiff		
XXXXII		Payroll records from plaintiff's personnel file reflecting final rate of pay		

*Plaintiff understands that Joint Exhibits are exhibits that both sides may attempt to introduce. While Plaintiff may use any or all of the Joint Exhibits during the trial for a relevant purpose, Plaintiff does not stipulate the accuracy of the information contained in exhibits prepared by Defendants. Plaintiff reserves the right to introduce a Joint Exhibit in order to demonstrate that the information contained therein is not accurate.

APPENDIX C
EXHIBITS OF PLAINTIFF BARBARA LODER HILDEBRANDT*

Ex. No.	Bates No.	Designation/Description	Identified	Admitted
6	BH 000039-40	E-mail from Horne to NSOs showing production of 644 mil on quota of 544 mil. Wendy Jensen 96%, Barbara Hale 137%, Barbara Loder 125%, Loretta Venezia 113%.		
7	BH 000026	MTD Net Production Report (shows Bansfield, Hale, Crompton much lower than BLH)		
8	BH 000033-34	Sales award nominees for 2001 for sales manager of year. NSF nominees include BLH.		
9	BH 000035	E-mail from Helms telling BLH she deserved the NSF nomination for her hard work.		
11	BH 000036 BH 000041	BLH anticipated revenue and e-mail from Booth that her anticipated revenue is great and he will help her close the business		
12	BH 000044	BLH production projections for July		
13	BH 000045	BLH production projections for August		
14	BH 000046	BLH production projections for September (over 1mil)		
15	BH 000048	BLH Employee Data Sheet (job action data)		
16	BH 000104-106	BLH Performance Review – Role Model		
17	BH 000118-120	BLH Performance Review – EE		
18	BH 000121-123	BLH accomplishments for 1999 and goals for 2000		
19	BH 000124-125	BLH Performance Review – EE		
20	BH 000126-128	BLH accomplishments for 1998 and goals for 1999		
21	BH 000129-130	BLH Performance Review – EE		
22	BH 000131-136	BLH accomplishments for 1997 and goals for 1998		
23	BH 000137-	BLH Performance Review – EE		

Ex. No.	Bates No.	Designation/Description	Identified	Admitted
	138			
24	BH 000139-140	BLH accomplishments for 1996 and goals for 1997		
25	BH 000141-144	BLH Performance Review – EE		
26	BH 000112-114	BLH Performance Review and Goal Setting Program		
27	BH 000109-111	BLH 2001 Mid-Year Evaluation		
27a	10671-73	BLH 2001 Mid-Year Evaluation produced by defendant		
28	BH 000027-28	BLH Booking Report		
29	BH 000037-38	E-mail from Home to NSO's		
30a	10347-48	2001 Booth Performance Review		
30b	10354	Booth file memo re interpersonal skills		
30c	10355	Booth file memo re inappropriate behavior		
30d	10356-61	1999 Booth Performance Review – ME		
30e	10368-71	Booth Management Self –Assessment		
36	10642-70	Hyatt Hotels & Resorts Employee Handbook		
56		Job Elimination Comparison Chart prepared by Hyatt for the October 1, 2004 Reduction In Force		
73	10503	Crompton's Employee Performance Appraisal 90 Day Adjustment Period (DNA/CNSO)		
77	10508-09 (27625-26)	Crompton's application		
79	10515	Crompton's resume		
86	27534	Crompton's Employee Data Sheet		
87	27535	Personal Requisition/Status Change showing Crompton's promotion to DNA/CNSO		
88	27536	Personal Requisition/Status Change showing Crompton receiving \$3k pay raise		
89	27537-38	Personnel Requisition/Status Change showing Crompton's promotion to NAM/ENSO		
92	27542-43	Offer letter to Crompton for NAM/ENSO position		
93	27544-46	Letter to Crompton re relocation expenses for move to Chicago (should be Washington DC?)		
95	27562	Memo to Crompton re eligibility for Qualified Matching Contribution (150%)		
96	27572	Relocation Summary for Crompton		
97	27575	Relocation Expenses for Crompton paid by California Hyatt Corp.		
98	27576	Relocation Expenses for Park Hyatt Washington paid by California Hyatt Corp.		

Ex. No.	Bates No.	Designation/Description	Identified	Admitted
102	27583	Relocation Expenses for North American Van Lines		
104	27586-87	Crompton's 2002 Review (DNA/CNSO)- EE		
110	27623	Crompton's resume		
116	27684	Crompton's Voluntary Quit Form		
118	27690	Crompton's resignation letter from HR McCormick		
144	HRPM 35-38	Reduction in Staff Corporate Policy		
145	HRPM 9	Employment Corporate Policy		
146	HRPM 489-90	Request for Employee Discharge form		
147	18254	Jennifer Roman's offer letter		
148	18256-57	Roman's job application		
153	18279-87	Memo and purchase orders re Roman's SOHO package		
154	10622-24	Hale's resumes		
155	28399	Hale's Employee Data Sheet		
156	26039	Daniels' Employee Data Sheet		
157	26040	Personal Requisition/Status Change form showing Daniels receiving \$10,000 increase authorized by Horne and Helms		
158	26044	E-mail from Daniels stating she will be working out of her home beginning 1/12/01.		
159	26105-06	Daniels' 2001 Performance Review		
160	26110-12	Daniels 1999 Performance Review		
162	27052	Camacho-London's Employee Data Sheet		
163	27055	E-mail from Camacho-London re her moving into her home office in June 2000		
164	27090	Camacho-London's 2001 Manager's Assessment by Karen Gray		
165	27091-92	Camacho-London's 2001 Self-Assessment		
166	27093-94	Camacho-London's 2001 performance review		
175	32006, 23008, 32009	Roman's Weekly Calendar pages		
181	32339	Revised list of Wendy Jensen Aylward's account redeployments		
184a - 184m mmm	34703 - 35599	Hyatt computer database document - activity on Plaintiff's Accounts by Other Salespeople October 2001-December 2002		
185	HRPM 000039-43	Separation/Exit Interviews Policy		
199		Summary of Information Contained in Exhibits 38f, 38g, 38h, 38i, and 38j Based on the Contents of the Personnel Files of Named Individuals		
200	BH 001852, 1854, 1857-62	Awards Received by Barbara Hildebrandt		
201	HRPM	Severance Pay Policy		

Ex. No.	Bates No.	Designation/Description	Identified	Admitted
	000081-82			
202	JH000316	John Horne's Employee Data Sheet		
203	TH 000119	Tyson Helms's Employee Data Sheet		
206		Defendant's Responses to Plaintiff's Discovery Requests		
222		Plaintiff's personnel file		
223		Selected records of Cincinnati Horticulture Society		
224		Report of Dr. Rosen		

*Plaintiff has retained the same exhibit numbers as those used for deposition exhibits in order to avoid having two different numbers on the same exhibit. Because not all deposition exhibits are being used at trial, and because some deposition exhibits are Joint Exhibits, there are gaps in the Plaintiff's exhibit numbers.

Plaintiff reserves the right to use all exhibits identified by Defendants in Appendix D.

Plaintiff reserves the right to offer exhibits taken from National Sales Force employee personnel records and other Hyatt documents produced in discovery proceedings if necessary during Plaintiff's case in rebuttal.

APPENDIX D**REVISED EXHIBITS OF DEFENDANTS**

<u>DESIGNATION DESCRIPTION</u>	<u>BATES NO.</u>	<u>IDENTIFIED/ADMITTED</u>
1. Employee handbook acknowledgment	10250-10254	
2. Retirement Savings Plan withdrawal form	10256-10258	
3. Letter detailing separation package to plaintiff	10262	
4. Notice of group life insurance conversion	10268	
5. Various conversion/distribution/insurance change forms and documents	10268-10281	
6. Portions of personnel file of Jack Horne, including Bates Nos. 10441-10443	10441-10443	
7. Portions of personnel file of Ty Helms, including Bates Nos. 10456-10481	10456-10481	
8. Selected documents from personnel file of Molly Crompton as may be needed for rebuttal	10494-10527	
9. Selected documents from personnel file of Barbara Hale as may be needed for rebuttal	10528-10536	
10. Production numbers	10702-10707	
11. Documents from employment file of Wendy Jensen Aylward as may be needed for rebuttal	10708-11147	
12. Documents from employment file of Dawn Beagle as may be needed for rebuttal	11148-11568	
13. Documents from employment file of Dean D'Anna as may be needed for rebuttal	11569-11691	
14. Documents from employment file of Jane Johnson as may be needed for rebuttal	11692-12288	
15. Documents from employment file of Mary Patton as may be needed for rebuttal	12289-12386	
16. Documents from employment file of Mary Rocereto as may be needed for	12387-12885	

	rebuttal		
17.	Lists of employees	14139	
18.	Mid-year reviews as may be needed for rebuttal	14162-14176, 14190-14202	
19.	Reduction in staff meeting materials	14177-14189	
20.	Documents from employment file of Maria Andriola-Pigg as may be needed for rebuttal	18828-19158	
21.	Documents from employment file of Donna Bongiovanni as may be needed for rebuttal	19267-19493	
22.	Documents from employment file of Michelle Bondanelli as may be needed for rebuttal	19494-19552	
23.	Documents from employment file of Marilyn Brumbaugh as may be needed for rebuttal	19553-19836	
24.	Documents from employment file of Jan Bansfield as may be needed for rebuttal	19837-20466	
25.	Documents from employment file of Ingeborg Spindola as may be needed for rebuttal	21635-21722	
26.	Documents from employment file of Loretta Venezia as may be needed for rebuttal	27123-21923	
27.	Documents from employment file of Rob Sarmiento as may be needed for rebuttal	22178-22268	
28.	Documents from employment file of Wanda Wallace as may be needed for rebuttal	22269-22367	
29.	Documents from employment file of Fred Reichelt as may be needed for rebuttal	24091-24521	
30.	Documents from employment file of Melissa Daniels as may be needed for rebuttal	26038-26612	
31.	Documents from employment file of Carol Buseman as may be needed for rebuttal	26613-27050	
32.	Documents from employment file of Molly Crompton as may be needed for rebuttal	27533-27814	
33.	Documents from employment file of Barbara Hale as may be needed for rebuttal	28398-28485	

34.	Documents from employment file of Denise Cmiel as may be needed for rebuttal	28486-28785	
35.	Documents from employment file of Mark Henry as may be needed for rebuttal	28203-29295	
36.	Documents from employment file of Faye Memoli as may be needed for rebuttal	29296-29426	
37.	Salaried employees' benefits program	31992-31998	
38.	Hyatt policies	32257-32294	
39.	Staff reduction employee data sheet	32295-32299	
40.	Open sales position listings	32300-32324	
41.	Ty Helms May 17, 2001 memo re sales chain expense savings and all attachments	32325-32331	
42.	Corporate sales-revenue generation tactics and highlights	32332-32333	
43.	Luxury market sales position and budget	32334-32336	
44.	Assignment of accounts documents from Jack Horne	32337-32340	
45.	Staff reduction list	32353	
46.	ABC list for reduction in force	32354-32379	
47.	Policy on promotions, new hires and transfers	32481-32489	
48.	Forecast of expenses-total company	32490	
49.	RevPAR document for 12 months	32491	
50.	Revised year end forecast	32492-32495	
51.	2001 performance comparison to 2000	32496	
52.	Occupancy since Sept. 11 attack	32497	
53.	ADR since Sept. 11 attack	32498	
54.	Revenue from Jan 1, 2001 through Sept 30, 2001	32571-32586	
55.	2001- 2002 W-2s of Molly Crompton, Barbara Hale, Jennifer Roman, Ingeborg Spindola, Fred Reichelt and Melissa Daniels-Andros	33513-33524	
56.	RECC tactics with actual greater than Plan 2001 and \$2,500	33525-33551	
57.	Daily activity by all Spirit sources-domestic	33552-33557	
58.	John Orr divisional meeting- financial results & analysis -7/30/01	33558-33567	
59.	Lindgren divisional meeting- financial results & analysis- 4/23/01	33568-33580	

60.	2001 performance summary	33581-33595	
61.	Lewin divisional meeting financial results & analysis- 4/24/01	33596-33608	
62.	Daily activity for all Spirit sources prior to & following 9/11/01	33609-33617	
63.	90 day forecasts for total properties & comparable properties- 4/01 – 12/01	33618-33631	
64.	Hyatt domestic group cancellations- 2001 & 2002 lost following 9/11/01	33632	
65.	Day by day performance statistics & percent change	33633-33685	
66.	Monthly financial statements- total company & total company-comparable	33686-33703	
67.	2001 quarterly & year end financial results (2000 v 2001)	33704-33708	
68.	Financial statements 1/01 – 12/01	33709-33721	
69.	Letters to hotel managers re reductions in corporate directed programs	33721-34102	
70.	90 day forecasts	34103-34106	
71.	Definite referral production reports 1/1/01 – 12/31/02	34130-	
72.	Selected portions of the Classified section of The Cincinnati Enquirer from Sunday, November 4, 2001 through Sunday, November 2, 2003; July 6-12, 2004 Career Builder Weekly of the Enquirer & Post; July 5-July 12, 2004 Queen City Jobs		
73.	“Our Employee Relations Policy” from Hyatt manual (produced in its entirety)		
74.	Open Door Policy from Hyatt manual (produced in its entirety)		
75.	Policy Against Harassment from Hyatt manual (produced in its entirety)		
76.	Policy Against Harassment from Hyatt Hotels policy manual, last revised May 1999	010632-010633	
77.	Corporate Ethics Statement	010634-010639	
78.	Hyatt Hotels Corporation Policy Against Harassment	010640	
79.	Acknowledgment of Policy Against Harassment	010641	
80.	Corporate office employee handbook	010642-010665	
81.	Expert report of David Berins and		

	attachments		
82.	Spreadsheet showing percent of achievement to yearly quota 01/07/02-01/07/07	010705	
83.	Summary listing of employees in Central National Sales Force, with indications of age, dates of hire, compensation range		
84.	Summary listing of information contained in Affidavits of Doug Patrick, indicating age breakdown and identities of persons affected by reduction in force, both in corporate office, company-wide, and in the National Sales Force, based on NSF personnel files		
85.	Summary listing/graphic demonstration of financial data contained in documents identified as Bates Nos. 33552-33721	33552-33721	
86.	Summary listing of plaintiff's accounts and their re-deployment		
87.	Summary listing of members of Central National Sales Force, with comparison of age, years of service, compensation, and other factors based on NSF personnel files		
88.	Summary document requesting verbiage in Hyatt's harassment, equal employment opportunity, open door, and ethics policy		
89.	All Interrogatory responses from Plaintiff		
90.	May 7, 2002 letter from Jack Horne to Barb Loder regarding an opening in Dearborn, Michigan		
112.	May 9, 2002 letter from Theresa Gallion to Robert Steinberg regarding job openings within National Sales		
113.	April 30, 2002 letter from Theresa Gallion to Robert Steinberg regarding openings in the National Sales Force		

114.	April 15, 2002 letter from Jack Horne to Barb Loder regarding an opening within National Sales		
115.	April 15, 2002 letter from Jack Horne to Wendy Jensen regarding an opening within National Sales		
116.	April 10, 2002 letter from Jack Horne to Barb Loder regarding an opening within National Sales		
117.	April 10, 2002 letter from Jack Horne to Wendy Jensen regarding an opening within National Sales		
118.	April 12, 2002 letter from Theresa Gallion to Robert Steinberg regarding an opening in National Sales Force		
119.	April 17, 2002 letter from Theresa Gallion to Robert Steinberg regarding openings within National Sales		
120.	May 7, 2002 letter from Jack Horne to Wendy Jensen regarding an opening in Dearborn, Michigan		
121.	May 7, 2002 letter from Jack Horne to Mary Rocerto regarding an opening in Dearborn, Michigan		
122.	May 7, 2002 letter from Jack Horne to Dawn Beagle regarding an opening in Dearborn, Michigan		
123.	May 23, 2002 letter from Theresa Gallion to Robert Steinberg regarding National Sales Force job openings		
124.	Trial aid representing business mix of each person in the Central National Sales Force		
125.	NSF account re-deployment	Plaintiff's discovery exhibit 183	
126.	Memo and charts from J. Horne re account redployments for D'Anna, Aylward, Roussel, Smith, Gills, Roman, Beagle, Rocereto, Hildebrandt, Patton, and Johnson	32341 - 52	

127. Bruce Small affidavit of Feb. 10, 2003 and attachments		
128. NSF list of persons affected by reduction in force with severance packages	10699	

Defendant reserves the right to use and introduce all exhibits listed by Plaintiff on her exhibit list.

Defendants reserve the right to offer exhibits taken from the National Sales Force employee personnel records and other documents produced in discovery if necessary for impeachment or rebuttal.